

SAN DIEGO COUNTY SUPERIOR COURT RULES

Revised January 1, 2004

DAILY JOURNAL CORPORATION

915 East First Street, Los Angeles, California 90012
P.O. Box 54026, Los Angeles, California 90054
Telephone (213) 229-5300

San Diego Commerce
2652 4th Ave. 2nd Floor
San Diego, CA 92103
Telephone (619) 232-3486
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SAN DIEGO COUNTY

Table of Contents

Revised January 1, 2004

DIVISION VI JUVENILE

CHAPTER 1 JUVENILE RULES

6.1	Preliminary Provisions (Amended Eff. 1/1/2002)
6.2	Definitions, Construction of Terms, Nature of Hearings (Amended Eff. 1/1/2002).....
6.3	Standing, Rights and Levels of Participation in Dependency Cases (Amended Eff. 1/1/2002).....
6.4	Peremptory Challenge (Amended Eff. 1/1/2002)
6.5	Objection to the Sufficiency of the Petition (Amended Eff. 1/1/2002).....
6.6	Amendment of the WIC § 300 Petition (Amended Eff. 1/1/2002)
6.7	Pre-Hearing Discovery in Dependency Matter (Amended Eff. 1/1/2002).....
6.8	Pretrial Status Conference (Amended Eff. 1/1/2002)
6.9	Settlement Conference (Amended Eff. 1/1/2002).....
6.10	Mediation (Amended Eff. 1/1/2002)
6.11	Use of Social Worker's Report at the Jurisdictional Hearing (Amended Eff. 1/1/2002)
6.12	Findings at Jurisdictional Hearing (Amended Eff. 1/1/2002).....
6.13	Court Appointed Special Advocates (CASAs) (Amended Eff. 1/1/2002)
6.14	Ex Parte Applications and Orders (Amended Eff. 1/1/2002)
6.15	Presence of Child at Court Hearing (Amended Eff. 1/1/2002).....
6.16	Procedure for Establishing Paternity; Blood Tests (Amended Eff. 1/1/2002).....
6.17	Confidentiality of Foster Homes (WIC § 308) (Amended Eff. 1/1/2002)
6.18	CASA Reports (Adopted Eff. 1/1/2002)
6.19	Substance Abuse Recovery Management System (SARMS) (New. 7/1/2003).....

CHAPTER 2 ADOPTION RULES

6.20	Adoption Calendar in Juvenile Court (Amended Eff. 1/1/2002)
------	---

CHAPTER 3 ATTORNEY SCREENING AND STANDARDS OF REPRESENTATION IN DEPENDENCY COURT

6.30	General Competency Requirement (Amended Eff. 1/1/2002)
6.31	Screening for Competency (Amended Eff. 1/1/2002).....
6.32	Minimum Standards of Education and Training (Amended Eff. 1/1/2002).....
6.33	Standards of Representation (Amended Eff. 1/1/2002)

CHAPTER 4 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS REGARDING DEPENDENCY ATTORNEYS

6.40	Reviewing and Resolving Complaints (Amended Eff. 1/1/2002)
------	--

CHAPTER 5 PROCEDURES FOR INFORMING THE COURT OF OTHER INTERESTS OF A DEPENDENT CHILD (WIC §§ 317, 317.6; CRC 1438(F))

6.50	Informing the Court of Other Interests of a Dependent Child (Amended Eff. 1/1/2002)
------	---

CHAPTER 6 ACCESS TO CONFIDENTIAL INFORMATION

San Diego County Superior Court Rules - Table of Contents

6.60	Disclosure of Information Relating to Dependent Children and their Families - Preliminary Provisions (Amended Eff. 1/1/2002).....
6.61	Disclosure of Dependency Records to Persons and Agencies Not Designated in Welf. & Inst. Code § 827 - Petition for Disclosure (JV-570) Required (Amended Eff. 1/1/2002).....
6.62	Cross-Designation of Other Courts to Sit as Juvenile Courts for Purposes of Welf. & Inst. Code § 827 (Amended Eff. 1/1/2002)
6.63	Disclosure of Dependency Records to Persons and Agencies Not Designated in Welf. & Inst. Code § 827 - Petition to View Records (JUV-4) Required (Amended. 7/1/2003).....
6.64	Disclosure of Dependency Records to Counsel for the Child in a Delinquency Proceeding (Amended Eff. 1/1/2002).....
6.65	Disclosure of Law Enforcement Reports Regarding Juveniles to Persons and Agencies Not Designated in Welf. & Inst. Code § 828 (Amended Eff. 1/1/2002)
6.66	Disclosure of Medical Information to Foster Parents and Other Care Providers (Amended Eff. 1/1/2002)
6.67	Disclosure of IEPs, Immunization Records and Other Health Records to HHS Social Workers and Children's Attorneys (Amended Eff. 1/1/2002).....
6.68	Disclosure of School Records to Suicide Homicide Audit Committee (SHAC) (Amended Eff. 1/1/2002).....

CHAPTER 7 PROCEDURES FOR APPOINTING COUNSEL

6.70	Attorneys for Children (Amended 7/1/2003)
6.71	Attorneys for Parents or Guardian(s) (Adopted Eff. 1/1/2002).....

CHAPTER 8 PROCEDURES FOR DETERMINING APPROPRIATE CASELOADS FOR CHILDREN'S COUNSEL

6.80	Determining Appropriate Caseloads for Children's Counsel (Adopted Eff. 1/1/2002).....
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APPENDIX A	Certification of Competency.....
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**DIVISION VI
JUVENILE
CHAPTER 1
JUVENILE DEPENDENCY
PROCEEDINGS**

Rule 6.1

Preliminary Provisions

(a) These rules, together with the rules promulgated by the Judicial Council for the juvenile courts, the Welfare and Institutions Code, those sections of other codes specifically made applicable to juvenile proceedings by the Welfare and Institutions Code, and relevant case law shall be the controlling body of law which governs proceedings in the San Diego Superior Court Juvenile Division.

(b) Insofar as these rules are substantially the same as existing statutory provisions relating to the same subject matter, they shall be construed as restatements thereof;

Insofar as these rules may add to existing statutory provisions relating to the same subject matter, they shall be construed so as to implement the purposes of the juvenile court law.

(c) To the extent that these rules may affect or declare substantive rights, these rules are intended to be a reflection of existing constitutional, statutory, case law, and Judicial Council rules of court, and are to be interpreted consistent with such law.

(d) These rules are intended to be applied in a fair and equitable manner consistent with the best interest of the children and families appearing before the juvenile court.

(e) Severability clause:

If a rule or subdivision thereof in this division is invalid, all valid parts that are severable from the invalid part remain in effect. If a rule or subdivision thereof in this division is invalid in one or more of its applications, the rule or subdivision thereof remains in effect in all valid applications that are severable from the invalid applications.

(f) These rules have prospective application only.

(Adopted, Eff. 1/1/90; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.2

Definitions, Construction of Terms, Nature of Hearings

(a) As used in these rules, unless the context or subject matter otherwise requires:

1. "CASA" means a court-appointed special advocate;

2. "Child" means a person under the age of 18 years;

3. "Clerk" means the clerk of the juvenile court;

4. "Court" means the juvenile court, and includes any judge or referee or referee pro tem of the juvenile court;

5. "CRC" means California Rules of Court;

6. "Foster Parent" means an adult relative or non-relative with whom a dependent child is placed;

7. "Guardian" means the legal guardian of the child;

8. "HHS" means the Health and Human Services Agency of San Diego County (formerly called "Department of Social Services, Children's Services Bureau");

9. "Notify" means to inform, either orally or in writing;

10. "Petitioner" means the San Diego County Health and Human Services Agency ("HHS") or its employees.

11. "WIC" refers to the California Welfare and Institutions Code.

(b) Construction of terms

1. "Shall" or "must" is mandatory; "may" is permissive.

2. The past, present, and future tense shall include the others.

3. The singular and plural number shall each include the other.

(c) Nature of Hearings

1. A jurisdictional settlement conference is a jurisdiction hearing on the uncontested calendar.

2. A contested jurisdiction hearing is a trial where testimonial and documentary evidence may be submitted on the issue of jurisdiction.

(Adopted, Eff. 1/1/90; Amended, Eff. 1/1/97; 1/1/2002; Renumbered 7/1/2001)

Rule 6.3

Standing, Rights and Levels of Participation in Dependency Cases

Unless otherwise expressly granted by constitutional, statutory, or case law, or rule of court, the standing, rights, and levels of participation of the following persons in dependency cases shall be limited to those provided in this rule.

(a) Parents and/or guardian(s):

The biological parents, adoptive parents, guardian(s) and/or person(s) having legal custody of a child who is the subject of a dependency action shall have standing as parties to the proceedings.

(b) Child:

The child who is the subject of a dependency action shall have standing as a party to the proceedings.

(c) De facto parent:

For purposes of this rule, a de facto parent is a person who is the current or recent caretaker of a child and who has been found by the court to have assumed, on a day-to-day basis, the role of a parent to the child, fulfilling both the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period of time. No person shall be granted de facto parent status who has inflicted or allowed to be inflicted serious harm on the child, including but not limited to physical, sexual, or emotional harm.

De facto parent status shall be granted by the court only upon a written application. Notice of such application and hearing date shall be given to the parties or their counsel of record by the court clerk. At the hearing on such application, the court shall consider the contents of the dependency file, any report filed by the social worker or the CASA for the child, and any other relevant and admissible evidence presented by the parties. The court may consider the declarations filed in support of or in opposition to such application if the declarants are made available for cross-examination. Before granting de facto parent status, the court shall find, by a preponderance of the evidence, that the moving party meets the criteria set forth in this rule. An application for de facto parent status shall not, in and of itself, constitute good cause for continuing any other hearing in the dependency action.

The de facto parent of a child who is the subject of a dependency action shall have standing as a party to the proceedings to the degree that the proceedings directly affect the de facto parent's legally recognizable interest in the child.

A de facto parent's right to discovery in the dependency proceeding is pursuant to WIC § 827. Upon granting de facto parent status, the court may make such discovery orders pursuant to that section as are necessary and appropriate.

Upon granting de facto parent status, the court may appoint counsel on a pro bono basis for the de facto parent. No right to the appointment of counsel shall exist for the bringing of this application.

In any case in which a child is removed from the physical custody of his or her parents or legal guardians pursuant to WIC § 361, a de facto parent, if a relative or licensed foster care provider, shall also receive preferential consideration for placement of the child over all other relatives and foster parents if such placement is in the best interest of the child and is conducive to any reunification efforts ordered by the court.

De facto parent status shall continue only so long as the psychological bond continues to exist between the de facto parent and the child. De facto parent status automatically terminates upon the termination of dependency jurisdiction.

(d) Relative:

For purposes of this rule, a "relative" includes a grandparent, aunt, uncle, first cousin, adult sibling (including full-, half-, and step-siblings), or current stepparent of the child who is the subject of a dependency proceeding.

A relative whose presence is known to the court shall receive notice of juvenile court proceedings as otherwise provided by law, and may be present at such proceedings if the court finds that his or her presence would not disrupt the orderly court process and would be consistent with the best interests of the child.

Participation in the court process for relatives is limited to the submission of a written or oral statement regarding their interest in the child, any information they might have that relates to the child

or the dependency action, and their recommendation regarding the child. The court may not consider such unsworn statements as evidence, but may consider such statements as a basis for ordering further investigation or services.

At the detention and disposition hearings, the home of a relative shall be given preferential consideration for placement of the child, as provided in WIC §361.3.

(e) Foster parent:

A foster parent of a child who is the subject of a dependency action shall receive notice of proceedings as otherwise provided by law, and may be present at such proceedings if the court finds that such presence would not disrupt of the orderly court process and would be consistent with the best interests of the child.

Participation in the court process for such foster parents is limited to the submission of a written or oral statement regarding their interest in the child, any information they might have that relates to the child or the dependency action, and their recommendation regarding the child. The court may not consider such unsworn statements as evidence, but may consider such statements as a basis for ordering further investigation or services.

(Adopted, Eff. 1/1/90; Amended, Eff. 1/1/94; 1/1/97, 1/1/2002; Renumbered 7/1/2001)

Rule 6.4

Peremptory Challenge

The court may assign dependency cases on an independent calendar system. Under that system, a dependency case assigned to a particular judge, commissioner, or referee shall remain with that judicial officer until the termination of jurisdiction, unless otherwise ordered. Assignment to a courtroom shall not be construed as assignment to a specific judicial officer.

Under independent calendar system, a challenge pursuant to Code of Civil Procedure § 170.6 to any judge, commissioner, or referee must be made within 10 days after notice of the assignment of the case to a specific judge, commissioner, or referee, or it will be deemed untimely. Notice of the assignment is complete upon service of such notice or initial appearance in court. (Adopted, Eff. 1/1/90; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.5

Objection to the Sufficiency of the Petition

A party may file an objection to challenge the sufficiency of a WIC § 300 petition on the ground that the petition alleges facts which, even if determined to be true, (a) are not sufficient to state a cause of action, or (b) are not stated with sufficient clarity and precision to enable the party to determine what must be defended against. (For purposes of this rule, "petition" includes amended petitions and subsequent petitions filed under WIC § 342, 360(c), or 364.)

Such an objection may be made orally or in writing. However, it must be made at either: (a) the

detention hearing or (b) the initial appearance after the filing of a petition but before the court makes a true finding. The court may entertain the objection by oral argument when made or may set it for further hearing.

If the court sets a hearing on the objection, counsel for the moving party may file a supporting memorandum of points and authorities. To be considered timely, the memorandum must be filed at least 48 hours before the hearing. Petitioner may file a responsive memorandum of points and authorities. To be considered timely, the responsive memorandum must be filed by 8:30 a.m. on the day of the hearing.

When an objection to the sufficiency of a petition is overruled and no plea has been filed, the court shall allow the plea to be entered at the conclusion of the hearing or upon such terms as may be just.

When an objection to the sufficiency of a petition is sustained, the court may grant leave to amend the petition upon any terms as may be just and shall fix the time within which the amended petition shall be filed.

(Adopted, Eff. 1/1/90; Amended, Eff. 7/1/91; 1/1/2002; Renumbered 7/1/2001)

Rule 6.6

Amendment of the WIC § 300 Petition

(a) Petitioner may amend the petition once without leave of court, either: (1) before a plea is entered or an objection is filed, or (2) after a denial is entered but before the trial on the issue of jurisdiction, by filing the amended petition and serving a copy on all parties at the jurisdictional settlement conference.

(b) The court may, in furtherance of justice, and on such terms as may be proper, allow the petitioner to amend the petition or any allegation in the petition by adding or striking the name of any party or by correcting statistical information, clerical mistake(s) or typographical error(s). (CRC 1430(f).)

(c) The court may, upon noticed motion or upon stipulation of all parties, and in furtherance of justice, amend the petition.

(d) The court may, upon a finding that the variance is not material, amend the petition to conform to the evidence received by the court at the jurisdiction hearing.

(e) Except as otherwise provided by law, the court may not amend the petition over the objection of petitioner.

(Adopted, Eff. 1/1/90; Amended, Eff. 1/1/97; 1/1/2002; Renumbered 7/1/2001)

Rule 6.7

Prehearing Discovery in Dependency Matter

(a) Prehearing discovery shall be conducted informally

Except as protected by statute privilege, or other good cause, all relevant material held by any party shall be disclosed in a timely fashion to all parties to the litigation or made available to the parties upon request.

(b) Only after all informal means have been exhausted may a party move the court for an order requiring disclosure.

The motion shall identify with specificity the information sought, state the efforts which have been made to obtain the information through informal means, and explain why the information is relevant and material.

The original of the motion, with supporting declaration(s) and a memorandum of points and authorities, shall be filed with the clerk of the assigned department. No motion will be accepted for filing or heard unless accompanied by a declaration by the movant the movant's counsel, setting forth the following:

1. That the informal request for discovery was made at least five court days before the motion was filed;

2. The response, if any, to the informal request by the party to whom the request was directed or that party's counsel;

3. That the movant has met and conferred with the party to whom the request was directed or that party's counsel, or the facts showing that movant has attempted in good faith to meet and confer with the party to whom the request was directed or that party's counsel.

The clerk will assign a hearing date within 10 court days of the date the informal request was made, but not less than five days before the next hearing, whichever is sooner. Responsive pleadings shall be filed and served at least two court days before the assigned hearing date.

(c) Materials released by the HHSA pursuant to an informal request for discovery, or after a formal motion to compel discovery has been granted, shall be subject to the following conditions unless the conditions are modified by a judicial officer.

1. All records and information obtained through discovery and any copies thereof shall be in the constructive possession and custody of the court and shall be returned to the court at the conclusion of the court proceedings, including all appeals and writs brought in the case.

2. Use of records and information obtained through discovery for use in a juvenile court proceeding is limited to that proceeding only.

3. Counsel for the parties may make such copies of the records and information obtained through discovery as are necessary for the preparation and presentation of the case. Counsel shall be responsible for returning all such copies to the court at the conclusion of the proceeding.

4. Records and information obtained through discovery shall be kept in a confidential manner and shall not be released, directly or indirectly, to members of the media or any other individuals not directly connected with the court proceeding.

5. Records and information may be reviewed by the parties, their counsel, and any investigator or expert witness retained by counsel to assist in the preparation of the case. Any such person reviewing the records or information shall be made familiar with the terms of this rule.

6. All reasonable costs incurred in the reproduction of records under this rule shall be the responsibility of the party seeking the records.

(d) Any discovery matters not addressed here by this rule or CRC 1420 shall be treated as a Petition for Disclosure of Juvenile Court Records pursuant to WIC § 827 and CRC 1423, upon a noticed motion showing good cause as set forth in subdivision (b) above.

(Adopted, Eff. 1/1/90; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.8

Pretrial Status Conference

(a) At the discretion of the court, a pretrial status conference may be heard in the trial-setting department at least 10 calendar days before the date set for trial. Upon stipulation of all parties, the pretrial status conference may be heard within 10 calendar days before the date set for trial.

(b) At the status conference, all attorneys shall be prepared to address pretrial matters such as the continuing necessity for trial, the identification of contested and uncontested issues, the time estimated for trial, the exchange of witness lists, the filing of motions, the presentation of stipulated and documentary evidence, and requests for judicial notice. The court shall establish a date and time certain for trial if one has not been previously set.

(Adopted Eff. 1/1/90; Amended Eff. 7/1/90; 1/1/97, 1/1/2002; Renumbered 7/1/2001)

Rule 6.9

Settlement Conference

(a) The court need not follow the procedures outlined in this rule where there is clear evidence that a settlement conference will not resolve the matter.

(b) If a matter is set for a contested hearing, the court may order the parties and their counsel to appear at a settlement conference, and may schedule dates for both the settlement conference and the hearing. (The hearing will proceed as scheduled only if the matter does not settle.) HHSA social workers may be on telephone stand-by. Unless expressly excused by the court, if any other party fails to appear at the settlement conference, the court may issue a bench warrant for that party.

(c) Before the settlement conference, each attorney shall conduct a comprehensive interview with his or her client, and make any further investigations that he or she deems necessary to ascertain the facts.

(d) At the settlement conference, the attorney for each party must be prepared to discuss the legal and factual issues and shall negotiate the case in good faith. Each attorney shall be prepared to submit, if appropriate:

1. a list of issues to be litigated;
 2. a list of proposed documentary evidence;
 3. a list of intended witnesses;
 4. a written request for judicial notice
- (Evidence Code § 450 et. seq.);

5. a list of stipulated evidence which will be presented at the time of trial.

(e) If a matter is not resolved at the settlement conference, the court will address pretrial issues. Counsel should be prepared to submit pretrial worksheets addressing the issues described in rule 6.8(b).

(Adopted Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.10

Mediation

At the discretion of the court, a case may be referred to mediation. If referred, the court shall identify the mediator and set the fee for the mediator's services. The parties and all attorneys shall be ordered to appear at the mediation.

(Adopted Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.11

Use of Social Worker's Report at the Jurisdiction Hearing

At a jurisdiction hearing, the court shall receive into evidence any social worker's report or screening summary. If the jurisdiction hearing is a contested hearing, the receipt of the report into evidence shall be subject to the following requirements:

(a) The report must be filed with the court and made available to the parties or their counsel at least 10 calendar days before the jurisdiction hearing.

(b) The social worker or supervisor who prepared or supervised the preparation of the report must be available to testify at the jurisdiction hearing if counsel for the petitioner intends to offer the report into evidence.

(c) For purposes of the jurisdiction hearing only, the court shall strike any portion of the report containing anonymous information.

(d) Upon request of the parent, guardian, child, or their counsel made at least five court days before the jurisdiction hearing, the social worker must either (1) provide the address and/or telephone number, if known, of any person whose statement is included in the social worker's report, or (2) make such person available, if requested, for cross-examination at the jurisdiction hearing. If, upon request, the social worker has not disclosed the address or telephone number, if known, of any witness, and a request is made to interview such witness before the hearing, the social worker shall make such witness available for interview if practicable and if the witness is willing.

(e) If the social worker, pursuant to subdivision (d) of this rule, has provided the address of a witness to the parent, guardian, child, or their counsel, and if such parent, guardian, child, or counsel presents evidence of unsuccessful attempts and due diligence to subpoena such witness for the jurisdiction hearing, and if the court finds there has been due diligence, the court shall strike, for purposes of the jurisdiction hearing only, the statements of such witness from the social worker's report. In the alternative, the court may grant a

continuance for a period up to 10 court days for the parties, including the social worker, to attempt to subpoena or make such witness available for testimony at the jurisdiction hearing. The court shall not grant more than one such continuance in any dependency matter.

(f) If the social worker, pursuant to subdivision (d) of this rule, has indicated that he or she will make such witness available at the jurisdiction hearing but fails to make such witness available, the court shall strike, for purposes of the jurisdiction hearing only, the statements of such witness from the social worker's report. In the alternative, the court may grant a continuance for a period of up to 10 court days for the parties, including the social worker, to attempt to subpoena or make such witness available for testimony at the jurisdiction hearing. The court shall not grant more than one such continuance in any dependency matter.

(g) For purposes of this rule, an attachment to a social worker's report shall be considered part of the social worker's report and shall be received into evidence if: (1) such attachment is relevant to the jurisdictional issues, (2) the social worker has referred to the significant portions of such attachment in the body of the report, (3) the social worker used the attachment as part of the basis of any conclusion or recommendation made in the report, and (4) the requirements of subdivisions (a) through (f) of this rule have been met.

(Adopted Eff. 1/1/90; Renumbered & Amended Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.12

Findings at Jurisdiction Hearing

(a) Procedure:

At a jurisdiction hearing, the court may make a finding on the allegations in the petition by way of one of the following procedures:

1. Admission of allegations. The court may accept an admission from a party that all or part of the allegations in the petition are true.

Before accepting an admission, the court must satisfy itself that the party understands the nature of the allegations in the petition and understands and waives the trial rights enumerated in CRC 1449. The court must also find that there is a factual basis for the admission. The child may object to the finding of a factual basis and may request a contested hearing on that issue.

2. No contest. The court may accept a plea of "no contest" to the allegations in the petition from a party.

Before accepting a "no contest" plea, the court must satisfy itself that the party understands the nature of the allegations in the petition and understands and waives the trial rights enumerated in CRC 1449. The court must also find that there is a factual basis for the "no contest" plea. The child may object to the finding of a factual basis and may request a contested hearing on that issue.

3. Submission on reports. The court may allow a dependency matter to be submitted on available written reports upon a stipulation by all

parties. The reports received by the court for purposes of a determination of jurisdiction may include the screening summary, police reports, and any other reports submitted by the social worker along with any attachments thereto. The court may make a finding that the allegations in the petition are true or not true, in whole or in part, based upon the information contained in the submitted reports.

Before allowing a party to submit the matter for decision based upon these reports, the court must satisfy itself that the party understands the nature of the allegations in the petition and understands and waives the trial rights enumerated in CRC 1449.

The party may make a closing argument before the court renders a decision.

4. Contested hearing. The court may hear the matter as a contested hearing and receive testimonial or documentary evidence properly submitted by the parties. The court shall make findings on the allegations in the petition based upon such evidence.

(b) Jurisdictional Findings

Inasmuch as a jurisdictional finding is as to the child, and not as to the parent or guardian, the court may make a finding that the child is a person described by WIC § 300 only after following the procedures of this rule or after making a finding that reasonable efforts have been made and failed to locate the parent or guardian, as to each and every parent and guardian.

(Adopted Eff. 1/1/90; Renumbered & Amended Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.13

Court-Appointed Special Advocates (CASAs)

In any action pursuant to WIC §§ 300-399, the court may, in an appropriate case and in addition to any counsel appointed for a child, appoint a court-appointed special advocate (CASA) to represent the best interests of the child who is the subject of the proceedings. If the court determines that a child would not benefit from the appointment of counsel pursuant to WIC § 317 and CRC 1438, the court may appoint a CASA for the child to serve as guardian ad litem, as required by WIC § 326.5. The CASA has the same duties and responsibilities as a guardian ad litem and must meet the requirements set forth in CRC 1438. CASA volunteers must be trained by and function under the auspices of Voices for Children, the court-appointed special advocate program formed and operated under the guidelines established by the National Court Appointed Special Advocate Association, WIC §§ 100-109, and CRC 1424.

(Adopted, Eff. 1/1/90; Amended 1/1/97, 1/1/2002; Renumbered 7/1/2001)

Rule 6.14

Ex Parte Applications and Orders

(a) Any party making an ex parte request for an order from the court in a dependency matter must

give 24 hours' notice to all other parties or their counsel. A declaration that such notice has been given to all other parties or their counsel must be set forth in the moving papers.

The court may waive such notice only upon a showing of good cause that is set forth by clear facts in a supporting declaration or declarations.

(b) Except in emergency matters requiring immediate action, all ex parte applications and proposed orders must be delivered during regular business hours to the clerk of the judicial officer assigned to the case, for presentation to that judicial officer.

(Adopted, Eff. 1/1/90; Renumbered Eff. 1/1/97, 7/1/2001; Amended 1/1/2002)

Rule 6.15

Presence of Child at Court Hearing

(a) This rule governs the attendance of children at court hearings unless the child is present by subpoena, the desire to be present, or by other order of the court.

(b) Children under four years of age are excused from attending all court hearings.

(c) Children four years of age and over must attend if:

1. Directed to attend by the court.

2. Requested to attend by a party or their counsel, and the court finds that:

a. Attending would not be detrimental to the child.

b. The child is not otherwise unable to attend due to disability, physical illness, or medical condition.

(d) No child is to be brought to court solely for the child to confer with the child's attorney or to visit parents.

(e) If the child is present, the judicial officer in the assigned court may view and speak with the child. If the child is represented by counsel, counsel will also be present.

(Adopted Eff. 1/1/90; Amended Eff. 7/1/91; Renumbered & Amended Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.16

Procedure for Establishing Paternity; Blood Tests

(a) The juvenile court is a proper forum to determine the parentage of a child when such a finding becomes necessary during a dependency proceeding.

(b) Any action to determine the biological parentage of a child who is the subject of a dependency proceeding shall conform to the provisions of Family Code §§ 7620 and 7630 et seq., except that either the petitioner or counsel for the child may also bring the action. All such actions shall use only approved Judicial Council forms.

(c) Except on stipulation by the parties and agreement of the court, any motion for blood, HLA, or DNA, or similar tests shall be properly noticed, in writing, accompanied by a memorandum of points and authorities in support of the motion and a

declaration by counsel which specifies the type of test to be conducted, the entity that will perform the test, and cost of such procedure.

The court shall enter appropriate orders for payment of the cost of the test, including but not limited to, apportionment among or between the parties.

(d) Any action to determine parentage may be assigned to a referee of the juvenile court upon the filing of a fully executed stipulation that the referee shall act in the capacity of a superior court judge. If the parties do not so stipulate, the matter shall be transferred to a superior court judge for the sole purpose of hearing the parentage issue.

(e) At the conclusion of any such action, the court shall enter judgment(s) accordingly.

(f) Nothing in this rule shall extend any statutory time limits for hearings, including disposition or review. Nor shall any provision of this rule preclude the court from issuing any proper interim orders or findings to promote the best interest of the child.

(Adopted Eff. 1/1/90; Renumbered & Amended Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.17

Confidentiality of Foster Homes (WIC § 308)

(a) For purposes of this rule, "foster family home" means the home of any person certified or licensed as a foster parent for the detention or placement of children pending or during juvenile dependency proceedings.

(b) For purposes of this rule, placement of a child includes the placement or detention of a child by the HHSA or the court pending or during juvenile dependency proceedings.

(c) The address of any foster family home in which a child has been placed shall be kept confidential at all times except as provided by this rule and any other provisions of law directly applicable to the confidentiality of foster family homes. Nothing in this rule prohibits, where appropriate, the release of the first name of the foster parent and a telephone number at which the foster parent can be reached so as to facilitate contact with the child. Further, nothing in this rule shall be construed to restrict the right or ability of the parent or guardian to visitation and contact with the child at a location other than the foster family home where such visitation and contact is in the child's best interest.

(d) The safety and protection of the foster family and the safety, protection, physical and emotional well-being of all children placed in the foster family home shall be the primary considerations in any decision or ruling made pursuant to this rule.

(e) A foster parent may at any time authorize the release of his or her address, thereby waiving the confidentiality of that foster family home.

1. Any such authorization shall be in writing, be personally signed and dated by the foster

parent, identify the specific individual(s) the foster parent is authorizing release of the foster family home address to, and include a statement that the foster parent is aware of the confidentiality provisions of the law and is voluntarily waiving them.

2. Any such authorization shall be provided to the social worker who shall maintain the authorization in the HHSA file. The social worker shall advise the attorney for the child, if any, and any CASA of the authorization within three court days. The authorization shall not go into effect for a period of seven days unless both the social worker and the attorney for the child, if any, concur that waiver of the confidentiality of the foster family home will not endanger the child's safety, protection, physical or emotional well-being. At any time before the expiration of the seven days, the social worker or the attorney for the child, if any, may apply to the juvenile court, with notice to all parties, for an order directing that the address of the foster family home be kept confidential and the reasons therefor.

3. Any such authorization may be withdrawn by the foster family at any time before the actual release of the address of the foster family home. Such withdrawal shall not be effective unless communicated to and received by the social worker handling the case before the actual release by the social worker of the address of the foster family home.

(f) At the detention hearing the court shall make an order that the address of the foster family home shall be kept confidential as required by law.

(g) Except as provided in subdivision (e) of this rule, the confidentiality of the address of a foster family home shall be maintained at all times before the disposition hearing or the expiration of 60 days from the date the child was ordered removed or detained, whichever comes first.

(h) At the disposition hearing and at any regularly scheduled review hearing, any party to the proceeding may request the court to issue an order releasing the address of the foster family home. No WIC § 388 petition shall be required at such hearings, but the procedures and standards set forth in subdivision (i) of this rule for the consideration and issuance of such an order shall be followed. Notice to the foster family home may be made orally, however.

(i) Following the disposition hearing or the expiration of 60 days from the date the child was ordered removed or detained, whichever comes first, any interested person may petition the court pursuant to WIC § 388 for an order releasing the address of the foster family home.

1. The court shall follow the procedures for the determination of a WIC § 388 petition, including the summary denial of the petition, but shall not grant the petition without a noticed hearing.

2. The foster parent and all parties or their counsel shall be noticed for the hearing. The foster parent shall be noticed through the HHSA. The foster parent shall have the right to be present, to be

represented by retained counsel, and to participate in the proceedings.

3. The court shall not grant the petition unless the person seeking release of the address has met his or her burden to show that new evidence or a change of circumstance establishes good cause for the release of the address and that the release is in the best interest of the child. For purposes of this determination, the best interest of the child includes, but is not limited to, the safety, protection, physical and emotional well-being of the child, as well as the safety and protection of the foster family with which the child is placed.

4. Any order of the court releasing the address of the foster family home shall be stayed for a period of 10 days, and may be stayed for a period in excess of 10 days, to allow any party, including the foster parent, to seek review of the decision through rehearing or petition for extraordinary writ relief.

(Adopted Eff. 7/1/98; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.18

CASA Reports

In any case in which the court has ordered the appointment of a CASA (court-appointed special advocate), the CASA must submit reports to the court at least two days before each of the following hearings: six-month review; twelve-month review (permanency hearing); eighteen-month review (permanency review hearing); selection and implementation hearing (366.26 hearing); and post-permanency planning reviews. The CASA may submit reports for any special hearings noticed to Voices for Children. If the CASA was appointed before the establishment of jurisdiction, the CASA may submit a report to the court at least two days before the jurisdiction/disposition hearing. The content of the report must be limited to the current condition of the child and needed services; jurisdictional issues must not be addressed (see CRC 1424 (f)(2)).

Only parties and their counsel are entitled to receive copies of CASA reports. Relatives, de facto parents, foster parents, and service providers are not entitled to receive copies of CASA reports.

CASA reports shall be copied and distributed by Voices for Children Staff.
(Adopted Eff. 1/1/2002)

Rule 6.19

Substance Abuse Recovery Management System (SARMS)

At the detention or initial hearing, if the HHSA report informs the court that a parent has alcohol and/or drug issues, the court shall refer that parent to the Substance Abuse Recovery Management System ("SARMS") for an assessment. If the court subsequently assumes jurisdiction and the parent has not been assessed voluntarily, the court shall order that parent to report to SARMS for assessment within 48 hours. If the assessment indicates a need for treatment, the SARMS Recovery Specialist shall develop a Recovery Services Plan (RSP) with the

parent. The RSP shall state the requirements for successful completion of the treatment program (e.g., submission to random urine testing, attendance at treatment program meetings, participation in individual and/or group therapy, et al.) and shall be incorporated by reference into the court-ordered reunification case plan. Once the RSP has been developed, the parent shall begin treatment immediately.

SARMS shall submit all biweekly progress reports to the court and HHSA. Upon request by counsel, the court will make copies of the progress reports available. SARMS also shall submit reports of noncompliance to the parent's attorney. The progress reports shall state whether the parent is actively participating in treatment, the number of sessions or meetings missed, if any, whether those absences were excused, and the results of each urinalysis. After the court has ordered participation in SARMS, review hearings are held after 30 days and 60 days to review the parent's progress.

Noncompliance with the RSP (i.e., a "noncompliant event" as defined in the court's Order to Participate in SARMS, Form SUPCT JUV-131) shall result in the following sanctions: For the first violation, the parent shall receive a judicial reprimand. For each subsequent violation, the parent shall be cited for contempt of court for disobeying a court order; a finding of contempt may result in a fine and/or incarceration for up to five days. If and when the parent is found in contempt of court and ordered to jail, the dependency judge will also ordered that the parent report for a Dependency Drug Court screening hearing after his or her release from jail.

(Adopted 7/1/2003)

CHAPTER 2 ADOPTION RULES

Rule 6.20

Adoption Calendar in Juvenile Court

All San Diego Superior Court adoption proceedings shall be calendared in either the Juvenile Division at 2851 Meadow Lark Drive, San Diego, or the North County Division at 325 S. Melrose, Vista. Unless expressly ordered otherwise, all proceedings filed at the juvenile court shall be heard in the first available department of the juvenile court on Fridays at 1:30 and 2:30 p.m.

For all adoption proceedings filed at the North County Division, the decree of adoption and agreement of adopting parents should be submitted no later than the Monday before the desired hearing date on Friday. See clerk's adoption guide. Requests for continuances should be directed to the calendar clerk before presentation to the court. (Renumbered Eff. 1/1/90; North County Court provisions formerly Div. VII; Amended Eff. 1/1/91, 1/1/2002; Renumbered 7/1/2001)

CHAPTER 3 ATTORNEY SCREENING AND STANDARDS OF REPRESENTATION

Rule 6.30

General Competency Requirement

Absent a knowing and intelligent waiver by the party represented, all attorneys appearing in juvenile dependency proceedings must be members in good standing of the State Bar of California and must meet the minimum standards of competence set forth in these rules. These rules apply to attorneys representing public agencies, attorneys employed by public agencies, attorneys appointed by the court to represent any party in a dependency proceeding, and attorneys who are privately retained to represent a party in a dependency proceeding.

(Adopted Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.31

Screening for Competency

(a) Absent a knowing and intelligent waiver by the party represented, all attorneys who represent parties in juvenile dependency proceedings must meet the minimum standards of training and/or experience set forth in these rules.

No attorney will be appointed by the court to represent a party in a dependency proceeding who has not submitted to the court and had approved a Certification of Competency as set forth in Appendix A of these rules. Further, no retained counsel will be allowed to appear on behalf of a party in a dependency proceeding without having submitted to the court and had approved a Certification of Competency or a knowing and intelligent waiver by the party of such certification.

(b) Attorneys who meet the minimum standards of training and/or experience set forth in rule 6.22, as demonstrated by the information contained in the Certification of Competency submitted to the court, are deemed competent to practice before the juvenile court in dependency cases, except as provided in subdivision (c) of this rule.

(c) Upon submission of a Certification of Competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the court may determine, based on conduct or performance of counsel before the court in a dependency case, that a particular attorney does not meet minimum competency standards. Further, the court retains the authority to review the general conduct and performance of an attorney and to decertify such attorney for good cause at any time. The court may order denial of certification and decertification only after the attorney has been given notice of the intended action and an opportunity to be heard.

(d) Any attorney appearing before the court in a dependency case who does not meet the minimum standards of training and/or experience must notify the court to that effect. The clerk of the court must notify the represented party by first-class mail to the party's last known address and the attorney at least 10 days before the hearing date of the following: (1) a hearing date, time, and location; (2) that at that hearing the court will consider the issue of whether

to relieve counsel for failing to complete the requisite training and to provide a Certification of Competency; and (3) that failure to appear for the hearing will be deemed a waiver of any objection and acquiescence to the relief of appointed counsel. At that hearing, absent a knowing and intelligent waiver by the party represented, the court must relieve such appointed counsel and must appoint certified counsel for the party whose attorney failed to complete the required training. If the attorney relieved is a member of a public agency, the agency has the right to transfer the case to a certified attorney within that agency. In the case of retained counsel, the court must notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to waive certification or obtain substitute private counsel is solely within the discretion of the party so notified.

(e) If a retained attorney maintains his or her principal office outside of this county, proof of certification by the juvenile dependency court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile dependency proceeding in this county.

(Adopted Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.32

Minimum Standards of Education and Training

(a) No attorney appearing in a dependency matter before the juvenile court may be certified by the court as competent until the attorney has completed the following minimum training and educational requirements.

1. Before certification, the attorney must have either:

i. At least six months of experience in dependency proceedings in which the attorney has demonstrated competence in representing his or her clients. To qualify for certification under this paragraph, the attorney must have made a substantial number of appearances and handled a variety of dependency hearings, including contested hearings. In determining whether the attorney has demonstrated competence, the court shall consider, among other things, whether the attorney has demonstrated knowledge and understanding of the topics listed in paragraph (ii) of this subdivision.

ii. Obtained at least 12 hours of training or education in juvenile dependency law, which included applicable case law and statutes, rules of evidence, state and local rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation, reasonable efforts, the educational rights of children, the Uniform Child Custody Jurisdiction and Enforcement Act, the Interstate Compact on the Placement of Children, and the Indian Child Welfare Act.

If an attorney has obtained in the required training or education but has not represented parties in a substantial number of dependency cases as determined by the juvenile court, the court must grant a provisional certification pending satisfactory completion of a mentor program within three months. While under the mentor's supervision, the attorney must try at least three contested hearings and handle at least one detention hearing, one jurisdiction hearing, one disposition hearing, one pre-permanency planning review, one supplemental petition, and one petition to modify a prior order. The attorney and the mentor must consult at least weekly regarding the handling of the attorney's cases. The mentor must be present and observe the attorney handle at least one contested hearing and such other hearings as are necessary and appropriate.

While serving under a provisional certification, an attorney may be appointed to represent parties in dependency cases and to receive compensation for such representation. For purposes of this program, a "mentor" is an attorney who has been approved to serve as a mentor by the supervising judge of the dependency court, has at least three years' experience handling dependency cases, has a current competency certification, and has agreed to serve without compensation as a mentor under this program. If the provisionally certified attorney is employed by a public agency, the mentor must be the supervising attorney of that agency or his/her designee.

(b) Each attorney who has been certified by the court shall submit a new Certification of Competency to the court on or before January 31st of the same year in which the attorney must certify his or her MCLE credits to the State Bar of California. The new Certification must be accompanied by evidence of 18 hours of continuing dependency education or training which were completed in the three years after the previous Certification was issued.

If the training or education was not presented by a California MCLE provider, the documentation of attendance is subject to the approval of the juvenile court. Evidence of training or education may include: a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at such program; proof of attendance at a court-sponsored or court-approved program; or such other documentation that demonstrates the relevance of the program and the attorney's attendance at such program.

(c) At least one-half of the attorney's continuing training or education hours must be in the areas set forth in subdivision (a)(1)(ii) of this rule. The remaining hours may be in other areas related to juvenile dependency practice, including, but not limited to, special education, mental health, health care, immigration, adoption, guardianship,

parentage, the Parental Kidnapping Prevention Act, state and federal public assistance programs, client interviewing and counseling techniques, case investigation, and settlement negotiations and mediation.

(d) When a previously certified attorney fails to submit evidence that he or she has completed the minimum required training and education for recertification to the court by the due date, the court shall notify the attorney in writing by first-class mail that he or she will be decertified unless the attorney submits, within 20 days of the date of the mailing of the notice, evidence of completion of the required training or education. If the attorney fails to submit evidence of the required training or education, the court shall proceed as set forth in rule 6.21(d). (Adopted Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.33

Standards of Representation

(a) Basic Attorney-Client Obligations

All attorneys appearing in dependency proceedings must advise their clients of the legal and factual aspects of the client's case and must represent their clients' interests vigorously within applicable legal and ethical boundaries.

In performing these duties, each attorney is expected to:

1. Thoroughly and completely investigate the accuracy of the allegations, explore any possible defenses, and consider alternatives to court action;
2. Meet regularly with clients, including clients who are children, regardless of the age of the child or the child's ability to communicate verbally;
3. Advise the client of the risks and benefits of the possible courses of action, including the taking of writs and appeals;
4. Determine the client's desires and interests;
5. Advocate the client's desires and interests to the court and other parties.
6. Contact social workers and other professionals associated with the client's case;
7. Work with other counsel and the court to resolve disputed aspects of a case without contested hearings;
8. Adhere to mandated timelines;
9. Inform the client of the procedure for lodging a complaint against the attorney;
10. Be familiar with relevant constitutional, statutory, and case law; and
11. Possess fundamental legal skills and a rudimentary understanding of relevant interdisciplinary topics.

In addition to the duties listed above, counsel for child or counsel's agents are expected to:

1. Have sufficient direct, personal contact with the child to establish and maintain an adequate and professional attorney-client relationship;
2. Explain fully, consistent with the child's ability to understand, the nature and consequences of the court proceedings.

3. Have sufficient contact with the child's caregiver, CASA, if any, and/or therapist, if any, to accurately assess the child's well-being and needs;

4. Monitor the child's development throughout the course of the proceedings and advocate for services that will provide a safe, healthy, and nurturing environment for the child;

5. Maintain a caseload that allows the attorney to perform the duties required by WIC § 317(e) and CRC 1438, and to otherwise adequately counsel and represent the child; and

6. Immediately inform the court of any interest or right of the child which may need to be protected or pursued in other judicial or administrative forums and seek instructions from the court as to appropriate procedures to follow.

(b) Relevant Laws and Programs

All attorneys practicing in dependency proceedings must have a working knowledge of the following statutes and rules, as well as the cases interpreting and applying them:

1. WIC sections 200-399, 825-830, 900-903.5, 10850, 11400 et seq. [AFDC-FC], and 1600 et seq.
2. CRC 39-39.2A, 1400-1498;
3. Code of Civil Procedure sections 128, 170, 170.6, 917.7, and 1209;
4. Education Code sections 56000 et seq. and Government Code section 7579.5 [educational rights of children];
5. Evidence Code;
6. Family Code sections 3400 et seq. [Uniform Child Custody Jurisdiction and Enforcement Act], 7500 et seq. [Parental Rights; Paternity Presumptions, Blood Testing, and Voluntary Declarations], 7600 et seq. [Uniform Parentage Act], 7800 et seq. [Freedom from Parental Custody and Control], 7900 et seq. [Interstate Compact on Placement of Children], and 7950 et seq. [Foster Care Placement Considerations];
7. Penal Code sections 11165 et seq. [Child Abuse and Neglect Reporting Act];
8. Title 25, United States Code, sections 1901-1963 [Indian Child Welfare Act] and Indian Child Custody Guidelines published at 44 Fed. Reg. 67, 584 (1979);
9. San Diego Superior Court Local Rules, Division VI-Juvenile.

The following areas of the law and local programs are critical in many dependency cases, and counsel must develop a working knowledge of them as they become applicable to individual cases.

1. The Substance Abuse Recovery Management System ("SARMS") and Dependency Drug Court.
2. Special immigrant juvenile status under Title 8, United States Code section 1101;
3. Title 28, United States Code section 1738A [Parental Kidnapping Prevention Act];
4. Criminal law, juvenile delinquency law, and the San Diego Juvenile Court protocol regarding dual jurisdiction cases;

San Diego County Superior Court Rules - Table of Contents

5. Mental health law (WIC sections 4500 et seq. [Lanterman Developmental Disabilities Services Act], 5000 et seq. [Lanterman-Petris-Short Act], 5850 et seq. [Children's Mental Health Services Act], and 6000 et seq. [Admissions and Judicial Commitments];

6. Family Code sections 6200 et seq. [Domestic Violence Prevention Act];

7. San Diego County Child Victim-Witness Protocol;

8. Other relevant portions of federal and California law relating to the abuse or neglect of children and to children's mental and physical welfare.

(c) Legal Skills

In addition to basic legal knowledge, counsel must have and continue to develop the following basic legal skills:

1. Basic trial skills (e.g., proper and succinct direct and cross-examination, proper objections);

2. Basic advocacy skills (e.g., client interviewing and counseling, case investigation, settlement negotiation, witness preparation, use of experts);

3. Relevant motion practice (e.g., motions pursuant to WIC §§ 350, 388, 390);

4. Sufficient understanding of writ and appellate practice to advise a client whether and how to seek such remedies and to arrange for a specialist to pursue them when necessary.

(d) Relevant Interdisciplinary Skills

The dependency system is complex in that it frequently involves issues arising from a variety of disparate and highly specialized areas. A collaborative problem-solving approach usually improves outcomes for children and families. Attorneys appearing in dependency court cannot effectively represent their clients without a fundamental understanding of the interdisciplinary issues listed below and the ability to obtain more detailed insight as the demands of individual cases require. Attorneys should have a general familiarity with and receive ongoing training in the following areas:

1. Dynamics of child abuse and neglect

2. Child development

a. Interviewing children

b. Children as witnesses

c. Developmental milestones as they relate to the identification and consequences of child abuse and neglect

3. Risk assessment

4. Substance abuse- the addiction and recovery process

5. Mental health issues

a. Purposes and uses of psychological and psychiatric evaluations

b. Purposes and expectations of various modalities of therapy

c. Psychotropic medications

6. Medical issues

a. Traumatic injuries

b. Nutritional deficits

c. Drug toxicity in children

7. Government payment issues

a. AFDC-Foster Care

b. CalWORKS and TANF

c. Medi-Cal

d. County Treasury funds

e. Supplemental Security Income (SSI)

f. Social Security Administration

(SSA)

g. Adoption Assistance Program

(AAP)

h. Kin-GAP funds

8. Cultural issues

9. Poverty issues

10. Education issues

11. Domestic Violence

12. Family reunification and preservation

13. Reasonable efforts

(Adopted Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

CHAPTER 4 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS

Rule 6.40

Reviewing and Resolving Complaints

(a) Written notice of the procedure for resolving complaints shall be provided in each courtroom at the adult client's first appearance. The child's attorney shall provide written notice of the procedure to a child 10 years of age or older or to the caregiver of a child under 10 years of age. Information regarding the procedure will be available in the clerk's office.

(b) Any participant who has a complaint about the performance of a juvenile court attorney may lodge a written complaint with the court hearing the matter (hereinafter, the court).

(c) Upon receipt of a written complaint, the court shall notify the attorney in question and his or her supervisor, if any, shall provide the attorney with a copy of the complaint and shall give the attorney 20 days from the date of the notice to respond to the complaint in writing. The attorney should attempt to obtain an informal resolution of the matter before responding to the complaint.

(d) After the attorney has responded to the complaint or the time for submission of a response has passed, the court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to local rules or policies of the court or has acted incompetently. The court may ask the complainant or the attorney for additional information before making a determination on the complaint.

(e) If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted contrary to the rules or policies of the court, the court may reprove the attorney, either privately or publicly, and may, in cases of willful or egregious violations of local rules or policies, issue such reasonable monetary sanctions against the attorney as the court may deem appropriate.

(f) If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted improperly, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six months, that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have acted improperly, or both. In cases in which the attorney's conduct caused actual harm to his or her client, the court may order additional hearings to determine whether that attorney should be relieved. The court may refer the matter to the State Bar of California for further action.

(g) The court shall notify the attorney at the attorney's address of record and the complaining party in writing of its determination of the complaint. If the court makes a finding of improper conduct, incompetence, or harm to the client under subdivision (e) or (f), the attorney may request a hearing in writing concerning the court's proposed action. If the attorney does not request a hearing within 10 days from the date the notice was sent, the court's determination shall become final.

(h) If the attorney requests a hearing, the hearing shall be held as soon as practicable after the attorney's request therefor, but in no case shall it be held more than 30 days after it has been requested except by stipulation of the parties. The complainant and the attorney shall each be given at least 10 days' notice of the hearing. The hearing may be held in chambers. The hearing shall not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or other member of the bar to act as hearing officer.

(i) At the hearing, each party shall have the right to present arguments to the hearing officer with respect to the court's determination. Such arguments shall be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination with respect to the complaint. Within 10 days after the hearing, the court or hearing officer shall issue a written determination upholding, reversing, or amending the court's original determination. The hearing decision shall be the final determination of the court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney.

(j) Nothing in these rules shall preclude any person or public agency from pursuing rights afforded them by any other statute or rule of law.

(Adopted Eff. 1/1/97; Renumbered 7/1/2001;
Amended Eff. 1/1/2002)

**CHAPTER 5
PROCEDURES FOR INFORMING
THE COURT OF OTHER INTERESTS
OF A DEPENDENT CHILD
(WIC §§ 317, 317.6; CRC 1438(d))**

Rule 6.50

**Informing the Court of Other Interests of a
Dependent Child**

(a) At any time while a dependency proceeding is pending, any interested person may notify the court that the child who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum.

(b) 1. Notice to the court may be given by filing Judicial Council form JV-180 (Modification Petition Attachment), by filing a declaration, or, in the case of an individual who is not a party to the action, by sending a signed letter addressed to the court.

2. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected, the nature of the proceedings being contemplated or conducted there, and any case number or other identifying information regarding the proceeding.

3. If known to the person giving notice, the notice shall also set forth what action on the child's behalf the person believes is necessary, whether counsel on a pro bono or contingency basis may be necessary or appropriate to take action on behalf of the child in the other forum, whether the nomination of a guardian ad litem to initiate or pursue a proposed action may be appropriate, whether joinder of an administrative agency to the juvenile court proceedings pursuant to WIC § 362 may be appropriate or necessary to protect or pursue the child's interest, and whether further investigation may be necessary.

(c) A copy of the notice shall be served on the child's social worker and on the child's attorney and/or CASA before the notice is filed with the court. Such service may be effected by personal service, first-class mail, or the equivalent, and shall be indicated on a proof of service filed with the notice. If the child is not represented by separate counsel, the notice shall so state. In the case of an individual who is not a party to the action who files a letter with the court, the clerk of the court shall serve a copy of the letter on the child's social worker and on the child's attorney and/or CASA.

(d) The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest and whether steps need to be taken to protect or pursue that right or interest in another forum.

(e) If the court determines that further action on behalf of the child is required, the court may do one or more of the following:

1. If the child is unrepresented, appoint an attorney for the child in the dependency proceedings

and direct that such attorney investigate the matter and report back to the court pursuant to WIC § 317(e).

2. Authorize an attorney to pursue the matter on the child's behalf in the other forum on a pro bono or contingency basis.

3. Nominate a guardian ad litem for the child for appointment by the other forum for the purposes of initiating or pursuing appropriate action on behalf of the child in that forum.

4. Notice a joinder hearing pursuant to WIC § 362(a), compelling a responsible agency to report to the court as to whether it has fulfilled its legal obligation to provide services to the child.

5. Take such other action the court may deem necessary or appropriate to protect the welfare, interests, and rights of the child.

(f) County treasurer funds shall not be used to fund legal or other services in another forum outside the juvenile dependency proceedings.

(Adopted Eff. 1/1/97; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

CHAPTER 6 ACCESS TO CONFIDENTIAL INFORMATION

Rule 6.60

Disclosure of Information Relating to Dependent Children and their Families- Preliminary Provisions

For purposes of this rule, "dependency records" include:

(a) juvenile court records as defined in CRC 1423;

(b) records kept in Health & Human Services Agency ("HHS") files pursuant to WIC § 10850 and Penal Code § 11165 et seq., regardless of whether a WIC § 300 petition was filed in the case; and

(c) testimony from HHS personnel regarding any information contained in dependency records (cf. *City of San Diego v. Superior Court* (1981) 136 Cal.App.3d 236, 239).

For purposes of this rule, "disclosure" or "access" provides for inspection, but not photocopying, at the court's business office or the HHS office where the dependency records are maintained, unless otherwise ordered by the court.

If the court authorizes photocopying, it shall be done by court or HHS personnel as appropriate, unless otherwise ordered by the court or agreed to by the parties. The person or agency obtaining photocopies shall pay for the copying (in accordance with the current San Diego Superior Court Schedule of Fees, citing Gov. Code § 26831).

Dependency records may not be obtained by civil or criminal subpoena. A waiver of confidentiality by any person identified or described in the requested dependency records does not automatically confer a right of access to those records.

(Amended Eff. 1/1/99; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.61

Disclosure of Dependency Records to Persons and Agencies Not Designated in WIC § 827 - Petition for Disclosure (JV-570) Required

(For procedures relating to prehearing discovery of dependency records by the parties to a dependency proceeding and their counsel, see rule 6.7.)

Except as otherwise provided in Chapter Six of these rules, if a person or agency not designated in WIC § 827 seeks access to dependency records, including documents and information maintained by the court, the Probation Department, or the HHS, that person or agency shall file a Petition for Disclosure of Juvenile Court Records on Judicial Council form JV-570. The petition shall be filed with the clerk in the Juvenile Court Business Office or other clerk designated to receive such petitions, unless the court has made an order cross-designating another court to sit as a juvenile court (see rule 6.28).

Petitioner shall give notice as required by CRC 1423(d). Service shall be to the subject of the juvenile records if he or she is no longer a minor or, if still a minor, upon a person authorized to act on his or her behalf (e.g., parent, guardian, attorney, etc.). This notice shall not be required if a written waiver of such notice is obtained from the minor (if now an adult) or a person authorized to act on the minor's behalf. For good cause shown, the court may waive such notice.

If the records are sought for use in a legal action which is not a dependency proceeding, petitioner shall also give notice by personal service or first-class mail to all parties in that action.

The petition should be prepared as follows:

1. Enter petitioner's name and address.

2. Enter petitioner's relationship to the child whose records are sought.

3. Mark the appropriate boxes.

4. Describe in detail the records sought (e.g., entire court file, specific documents in court file, information in HHS files, social worker testimony regarding file).

- State that the petition is "based on knowledge, information, and belief that such records exist and are relevant to the purpose for which they are being sought." (CRC 1423(c).)

- Specify the type of disclosure requested (e.g., inspection, photocopies, or both).

5. Mark the appropriate boxes.

- Describe in detail the reasons the records are being sought and their relevancy to the proceeding or purpose for which petitioner seeks access to the records. (CRC 1423(c).)

- Explain why disclosure is necessary, i.e., why petitioner has no other method to obtain this information other than through disclosure of the requested records. (CRC 1423(b).)

- Explain how the records sought are reasonably likely to disclose "information or evidence of substantial relevance to the pending litigation, investigation, or prosecution." (CRC 1423(b).)

- Explain how petitioner will use the records if the court grants the petition.

6. Mark the appropriate boxes and enter the information requested. (See CRC 1423(d) for notice requirements.)

7. Mark the appropriate boxes.

8. Mark the box if appropriate.

The petition may be supported by a declaration of counsel and/or a memorandum of points and authorities.

If the petition is granted, the court will issue a protective order specifying the records to be disclosed and the procedure for providing access and/or photocopying. (CRC 1423(b).) Persons or agencies obtaining records under such authorization must abide by the terms of the protective order. Any unauthorized disclosure or failure to comply with the terms of the order may result in vacation of the order and/or may be punishable as contempt of court. (See WIC § 213.)

This rule is not intended to replace, nullify, or conflict with existing laws (including Pen. Code § 11167(d)) or the policies of the HHSA, the Probation Department, or any other public or private agency. This rule does not prohibit the release of general information on Juvenile Court policies and procedures. (Adopted Eff. 1/1/99; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.62

Cross-Designation of Other Courts to Sit as Juvenile Courts for Purposes of WIC § 827

(a) Family Court Proceedings

If dependency records are sought for a pending action in the San Diego Superior Court Family Law Division and the action involves the child and the child's family, the judicial officer presiding in that court may be cross-designated by this rule as a judge of the San Diego Superior Court Juvenile Division for the purpose of determining which records, if any, should be disclosed to the requesting party and the terms of any appropriate protective orders. The judicial officer shall make this determination in accordance with WIC § 827, CRC 1423, Evidence Code §§ 915(b) and 1040(b), and Penal Code § 11167(d).

(b) Civil and Criminal Proceedings

If dependency records are sought for a pending civil or criminal action in San Diego Superior Court and the action involves the child or child's family, the judicial officer presiding in that court may be cross-designated as a judge of the San Diego Superior Court Juvenile Division for the purpose of determining which records, if any, should be disclosed to the requesting party and the terms of any appropriate protective orders. The judicial officer shall make this determination in accordance with WIC § 827, CRC 1423, and Evidence Code §§ 915(b) and 1040(b).

Requests for cross-designation may be made by counsel in the civil or criminal action, or by the civil or criminal court on its own motion, and should be

directed to the Presiding Judge of the San Diego Superior Court Juvenile Division.

(Adopted Eff. 1/1/99; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.63

Disclosure of Dependency Records to Persons and Agencies not Designated in WIC § 827 - Petition to View Records (JUV-4) Required

(a) In addition to the persons and agencies designated in WIC § 827, the following may have access to dependency records and/or obtain photocopies of dependency records without a prior court order, subject to the conditions specified, on the basis that [1] disclosure will be in the best interest of the child whose records are sought and [2] the information contained in those records is necessary and relevant to:

a juvenile dependency or delinquency proceeding;

a civil or criminal investigation or proceeding;

a proceeding involving child custody or visitation;

a proceeding involving adoption, guardianship, or emancipation of a minor;

an action to establish paternity;

an administrative proceeding regarding foster home licensure;

a proceeding involving probate or conservatorship; or

a proceeding involving domestic violence.

1. Judicial officers of the San Diego Superior Court Family Division, when the child who is the subject of the records, or his or her sibling, is also the subject of custody or visitation proceedings under Family Code § 3000 et seq. (See Fam. Code §§ 3011(b), 3020).

In such cases, the Family Law judicial officer shall be cross-designated pursuant to rule 6.62(a) for the purpose of determining which records, if any, should be disclosed to the parties in the family law proceeding and the terms of any appropriate protective orders.

2. Judicial officers of the San Diego Superior Court, upon cross-designation to sit as judicial officers of the Juvenile Division pursuant to rule 6.62(b) for the purpose of determining which records, if any, should be disclosed to the parties in the civil or criminal proceeding and the terms of any appropriate protective orders.

3. County Counsel, for the purpose of representing HHSA in a dependency case or civil action.

4. San Diego County Juvenile Probation Officers, when the child who is the subject of the records is also the subject of juvenile court proceedings under WIC § 601 or 602. In such cases, which are subject to the court's Protocol for Coordination in Dual Jurisdiction Matters, the following persons may have access to the child's delinquency records, including minutes orders, and/or may obtain photocopies of the delinquency records without a prior court order: [1] HHSA social workers, [2] all dependency attorneys actively

San Diego County Superior Court Rules - Table of Contents

participating in juvenile proceedings involving the child, and [3] the child's CASA, if any. Copies of any joint assessment report, prepare pursuant to WIC § 41.1 and filed with the court, must be provided to the child, the child's parent or legal guardian, all attorneys of record, the HHSA social worker, the probation officer, any CASA, and any other juvenile court having jurisdiction over the child

5. CASAs (Voices for Children, Inc.), as provided under WIC §§ 105, 107.

6. An Indian child's tribe, as provided under Title 25, United States Code chapter 21 [Indian Child Welfare Act].

7. Employees or agents of San Diego Superior Court Family Court Services and members of the Family Court Case Consultation Team.

8. Employees or agents of San Diego County Mental Health Services (Health & Human Services Agency).

9. Any licensed psychiatrist, psychologist, or other mental health professional ordered by the San Diego County Superior Court, Family Division, to examine or treat the child or the child's family.

10. Any hospital providing inpatient psychiatric treatment to the child, for purposes of treatment or discharge planning.

11. Any government agency engaged in child protection.

12. The San Diego County Victim-Witness Assistance Program and the State Board of Control Victims of Crime Program, for the purpose of providing services to a victim of or a witness to a crime.

13. The Parole Services Division of the California Department of Corrections.

14. The California Board of Prison Terms, as provided under Penal Code § 11167.5(b)(9).

15. Members of the San Diego County Grand Jury.

16. Members of the San Diego County Juvenile Justice Commission.

17. The San Diego County Board of Supervisors or their agent(s), for the purpose of investigating a complaint from a party to a dependency proceeding.

18. Public and private schools, for the sole purpose of obtaining the appropriate school placement for a child with special education needs pursuant to Education Code § 56000 et seq.

19. Investigators and investigative specialists employed by the San Diego County District Attorney and assigned to the Child Abduction Unit, when seeking the records of a child who has been reported as detained or concealed in violation of Penal Code §§ 278 and 278.5, for the sole purpose of investigating and prosecuting persons suspected of violating Penal Code §§ 278, 278.5, and related crimes.

20. Investigators employed by attorneys who represent parties in dependency proceedings, when seeking records that may be released to the attorney without a court order under WIC § 827.

21. The Mexican Consulate, when seeking the records of a child who is in protective custody

and/or is before the court for a dependency action, and either: [a] is a Mexican national, or [b] has relatives (as defined in WIC § 319) who are Mexican nationals.

22. The U.S. Social Security Administration, for the purpose of determining a child's eligibility for benefits.

23. Choice Program staff, for the purpose of providing intensive supervision and support to wards and dependents of the court, children with active HHSA files who are at high risk for group home or institutional placement, and the families of these children, including access to electronic data to assist in research and evaluation of the Choice Program.

24. The San Diego County Regional Center for the Developmentally Disabled.

25. The San Diego County Probation Department, when performing its duty under Penal Code § 1203.097 to certify treatment programs for domestic violence offenders, for purposes of documenting a treatment program's failure to adhere to certification standards and identifying serious practice problems in such treatment programs, provided that in any proceeding for the suspension or revocation of a treatment provider's certification or in any document related thereto, the Probation Department shall not disclose any child's name.

Persons seeking access to and/or photocopies of dependency records under this rule shall fill out, sign, and submit to the clerk in the Juvenile Court business office (or other clerk designated to receive such petitions) a "Petition to View Records and/or Request for Copies" (SUPCT form JUV-4). The completed form shall be kept in the file that is the subject of the Petition and/or Request.

(b) In addition to the persons and agencies designated in WIC § 827, the following may inspect or receive verbal information regarding dependency records without a prior court order (but must file a Petition for Disclosure [JV-570] to obtain photocopies), subject to the conditions specified, on the basis that [1] disclosure will be in the best interest of the child whose records are sought and [2] the information contained in those records is necessary and relevant to the proceeding or purpose for which the records are sought:

1. U.S. Department of Justice prosecutors or their agents.

2. U.S. military prosecutors or their agents.

3. Federal Bureau of Investigation agents.

4. California Attorney General's Office prosecutors.

5. Any other agency or office authorized to investigate or prosecute criminal or juvenile cases under state or federal law.

6. Any attorney appointed to represent the child in Family Court proceedings pursuant to Family Code § 3150.

Persons seeking access to and/or photocopies of dependency records under this subdivision shall present a photo I.D. and proof that they are entitled to access and/or photocopies (e.g., law enforcement badge or Bar card).

Persons seeking access (but not photocopies) to dependency records under this subdivision shall fill out, sign, and submit to the clerk in the Juvenile Court business office (or other clerk designated to receive such petitions) a "Petition to View Records and/or Request for Copies" (SUPCT form JUV-4). The completed form shall be kept in the file that is the subject of the Petition and/or Request.

Persons seeking photocopies of dependency records under this subdivision shall file a Petition for Disclosure [JV-570] (see rule 6.27).

(c) Persons or agencies obtaining records under this rule shall not disclose such records to another person or agency unless authorized to do so by the Juvenile Court. Any unauthorized disclosure may be punishable as provided by applicable laws.

(d) This rule is not intended to replace, nullify or conflict with any existing policies of the HHSA, the Probation Department, or any other public or private agency. This rule does not prohibit the release of general information on Juvenile Court policies and procedures.

(Adopted Eff. 1/1/99; Renumbered 7/1/2001; Amended 1/1/2002; Rev. eff. 7/1/2003)

Rule 6.64

Disclosure of Dependency Records to Counsel for the Child in a Delinquency Proceeding

(a) Counsel appointed by the court or privately retained to represent a child in a delinquency proceeding (WIC § 602 et seq., including WIC § 707) may have access to the child's dependency records, as defined in rule 6.26, without a prior court order, subject to the following:

1. Counsel shall give notice to the HHSA social worker assigned to the child's case (or the HHSA Legal Procedures Liaison, if there is no assigned social worker) at least five days before counsel will inspect records maintained by the HHSA.

2. Counsel shall not have access to any information which would tend to identify a reporter of child abuse or neglect, as prohibited under Penal Code §§ 11167 and 11167.5.

3. Counsel shall not have access to any information regarding HIV testing or HIV infection, as prohibited under Health & Safety Code § 120975 (formerly § 199.20) et seq.

4. Counsel shall not have access to any confidential or privileged information regarding persons other than his or her child client.

5. Persons seeking access to dependency records under this rule shall fill out, sign, and submit to the clerk in the Juvenile Court business office (or other clerk designated to receive such petitions) a "Petition to View Records and/or Request for Copies" (SUPCT form JUV-4). The completed form shall be kept in the file that is the subject of the Petition and/or Request.

For purposes of this rule, "access" provides for inspection, but not photocopying, of dependency records at the court's business office or the HHSA

office where the records are maintained, unless otherwise ordered by the court.

(b) Counsel appointed by the court or privately retained to represent a child in a delinquency proceeding (WIC § 602 et seq., including WIC § 707) shall file a Petition for Disclosure of Juvenile Court Records on Judicial Council form JV-570 (see rule 6.27), with a request for a protective order (see CRC 1423(b)), in order to:

1. Obtain photocopies of the child's dependency records.

2. Obtain testimony from a HHSA representative regarding any information contained in the child's dependency records.

3. Disseminate information obtained from inspection of the child's dependency records to any persons or agencies not authorized to obtain such information under WIC § 827.

Notice of the filing of the Petition for Disclosure shall be given as required by CRC 1423(d).

If the court authorizes photocopying, it shall be done by court or HHSA personnel as appropriate, unless otherwise ordered by the court or agreed to by the parties. The person or agency obtaining photocopies shall pay for the copying (in accordance with the current San Diego Superior Court Schedule of Fees, citing Gov. Code, § 26831).

Dependency records may not be obtained by civil or criminal subpoena. A waiver of confidentiality by any person identified or described in the requested dependency records does not automatically confer a right of access to those records.

(Adopted Eff. 1/1/99; Renumbered 7/1/2001; Amended Eff. 1/1/2002)

Rule 6.65

Disclosure of Law Enforcement Reports Regarding Juveniles to Persons and Agencies not Designated in WIC § 828

If a person or agency not designated in WIC § 828 seeks access to unsealed records held by a law enforcement agency, including reports regarding children who are the subject of dependency proceedings, that person or agency shall file a Petition to Obtain Report of Law Enforcement Agency/Juvenile (Judicial Council form JV-575) with the clerk in the Juvenile Court business office or other clerk designated to receive such petitions. The petition shall set forth with specificity the reasons for the request, the information sought, and its relevancy to the proceeding or purpose for which petitioner seeks the information.

(Adopted Eff. 1/1/99; Renumbered 7/1/2001; Amended Eff. 1/1/02)

Rule 6.66

Disclosure of Medical Information to Foster Parents and Other Care Providers

Upon discharge of an infant, who is a dependent of the court or who is on a "hospital hold" pursuant to WIC § 309(b) or § 16525.14

[Options for Recovery], and the release of such infant to a foster parent designated by the HHSA pursuant to WIC § 16525.30 (or other care provider as permitted by law), the health care provider discharging the infant may provide to the foster parent or other care provider a written summary of the infant's medical history, diagnosis, and treatment, if necessary for the proper treatment of the infant after discharge.
(Adopted Eff. 1/1/99; Renumbered 7/1/2001; Amended Eff. 1/1/02)

Rule 6.67

Disclosure of IEPs, Immunization Records, and Other Health Records to HHSA Social Workers and Children's Attorneys

In any case where a child is under the dependency jurisdiction of the court (WIC § 300 et seq.) or under informal supervision pursuant to WIC § 360, the HHSA social worker assigned to the child's case and the attorney representing the child in dependency proceedings (see WIC § 317(f)) may receive, upon request, copies of any written individualized education programs (IEPs), immunization records, and any other school or health records maintained by [1] a public school district or private school in which the child is or was enrolled, [2] a hospital to which the child is or was admitted, or [3] a health care provider who is or was providing medical, dental, psychiatric, or psychological treatment for the child.
(Adopted Eff. 1/1/99; Renumbered 7/1/2001; Amended Eff. 1/1/02)

Rule 6.68

Disclosure of School Records to Suicide Homicide Audit Committee (SHAC)

As established by the HHSA Violence and Injury Prevention Program, the Suicide/Homicide Audit Committee (SHAC) conducts multi-agency case reviews to develop policy and program recommendations based on trends in the causes of violence and on agency interaction with youth and families. Upon a request by SHAC for specified school records and/or information, a public school district, private school, or community college district located in San Diego County may release the records or information requested to the SHAC member(s) designated to receive such records or information, unless otherwise prohibited by law, agency policy, or an applicable canon of professional ethics and responsibility. Any school records or information obtained under this rule, including discussions and consultations among SHAC members regarding such records or information, shall be kept confidential and shall not be released, directly or indirectly, to nonmembers.
(Adopted Eff. 1/1/99; Renumbered 7/1/2001, 1/1/2002)

**CHAPTER 7
PROCEDURES FOR APPOINTING
COUNSEL**

Rule 6.70

Attorneys for Children

At the earliest possible stage of proceedings, the court must appoint counsel for the child as provided in WIC § 317 and CRC 1438. Appointed counsel and/or the court appointed special advocate must continue to represent the child at all subsequent proceedings unless properly relieved by the court.

For the purposes of the Child Abuse Prevention and Treatment Act grants to states (Public Law 93-247), in all cases in which a dependency petition has been filed and counsel has been appointed for the child, the attorney for the child shall be the guardian ad litem for the child in the dependency proceedings unless the court appoints another adult to serve as the child's guardian ad litem. If no counsel is appointed for the child, or if at any time the court determines a conflict exists between the role and responsibilities of the child's attorney and that of a guardian ad litem, or if the court determines it is best for the child to appoint a separate guardian ad litem, the court shall appoint another adult as the guardian ad litem for the child. The guardian ad litem for the child may be any attorney or a CASA.
(Adopted Eff. 1/1/2002; Rev. eff. 2003)

Rule 6.71

Attorneys for Parents or Guardian(s)

At the detention or initial hearing, the court must appoint counsel for the mother and counsel for a presumed father as provided in WIC § 317 and CRC 1438. Appointed counsel shall continue to represent the client at all subsequent proceedings unless properly relieved by the court.
(Adopted Eff. 1/1/2002)

**CHAPTER 8
PROCEDURES FOR DETERMINING
APPROPRIATE CASELOADS FOR
CHILDREN'S COUNSEL**

Rule 6.80

Determining Appropriate Caseloads for Children's Counsel

The attorney for the child must have a caseload that allows the attorney to perform the full range of duties required by WIC § 317(e) and CRC 1438, and to otherwise adequately counsel and represent each child.

Pursuant to WIC § 317(g), if counsel is to be appointed for a child, the court must first utilize the services of the Public Defender. If there is a conflict of interest, then appointments are made to first- and second-level conflict offices.

The Public Defender utilizes a team approach which includes the use of skilled investigators who are trained and/or experienced in social work and child protection, paralegals who assist attorneys with routine legal work, and other clerical support. The Public Defender provides a team of professionals to represent children in each dependency court. Each court team consists, at a minimum, of an equal number of attorneys and investigators, legal assistants, and other clerical support. In addition, the Public Defender utilizes the

assistance of law clerks from local law schools. With this structure, the Public Defender may carry an average attorney caseload of 400 children.

Conflict offices that do not utilize a team approach similar to that of the Public Defender may carry an average attorney caseload of 150 children unless a support structure is developed that will enable the conflict offices to carry a larger caseload. (Adopted Eff. 1/1/2002)

San Diego County Superior Court Rules - Table of Contents

APPENDIX A
SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
JUVENILE DIVISION
CERTIFICATION OF COMPETENCY

I, _____,
number Name office address telephone

and an attorney at law licensed to practice in the State of California. My State Bar Number is _____.
I hereby certify that I meet the minimum standards for practice before a Juvenile Dependency Court set forth in California Rules of Court, rule 1438, and local rule Section Three, and that I have completed the minimum requirements for training, education and/or experience as set forth below. This is a ☐ new certification ☐ recertification.

- ☐ Education and Training
(Attachment to explain and/or document)
- ☐ Experience
(Attachment to explain and/or document)
- ☐ Other
(Attachment to explain and/or document)

Dated

Attorney Signature

Dated

Approved by
Presiding Dependency Judge
